

1 AN ACT Relating to modernizing the control of certain
2 communicable diseases;

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 70.24.015 and 1988 c 206 s 901 are each amended to
5 read as follows:

6 The legislature declares that sexually transmitted diseases and
7 blood-borne pathogens constitute a serious and sometimes fatal
8 threat to the public and individual health and welfare of the people
9 of the state. The legislature finds that the incidence of sexually
10 transmitted diseases and blood-borne pathogens is rising at an
11 alarming rate and that these diseases result in significant social,
12 health, and economic costs, including infant and maternal mortality,
13 temporary and lifelong disability, and premature death. The
14 legislature further finds that sexually transmitted diseases and
15 blood-borne pathogens, by their nature, involve sensitive issues of
16 privacy, and it is the intent of the legislature that all programs
17 designed to deal with these diseases afford patients privacy,
18 confidentiality, and dignity. The legislature also finds that
19 medical knowledge and information about sexually transmitted
20 diseases and blood-borne pathogens are rapidly changing. It is
21 therefore the intent of the legislature to provide a program that is
22 sufficiently flexible to meet emerging needs, deals efficiently and

effectively with reducing the incidence of sexually transmitted diseases and blood-borne pathogens, and provides patients with a secure knowledge that information they provide will remain private and confidential.

Sec. 2. RCW 70.24.017 and 2001 c 319 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) (~~("Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.))~~ "Blood-borne pathogen" means a pathogenic microorganism that is present in human blood and can cause disease in humans. "Blood-borne pathogen" includes hepatitis B virus, hepatitis C virus, and human immunodeficiency virus, as well as any other pathogen specified by the board in rule.

(2) "Board" means the state board of health.

(3) "Department" means the department of health, or any successor department with jurisdiction over public health matters.

(4) "Health care provider" means any person who is a member of a profession under RCW 18.130.040 or other person providing medical, nursing, psychological, or other health care services regulated by the department of health.

(5) "Health care facility" means a hospital, nursing home, neuropsychiatric or mental health facility, home health agency, hospice, child care agency, group care facility, family foster home, clinic, blood bank, blood center, sperm bank, laboratory, or other social service or health care institution regulated or operated by the department of health.

(6) (~~("HIV-related condition" means any medical condition resulting from infection with HIV including, but not limited to, seropositivity for HIV.))~~ "Health order" means an order issued under RCW 70.24.024.

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(7) "Human immunodeficiency virus" or "HIV" means all HIV and HIV-related viruses which damage the cellular branch of the human immune or neurological systems and leave the ((infected)) person immunodeficient or neurologically impaired.

(8) "Test for a sexually transmitted disease" means a test approved by the board by rule.

(9) "Legal guardian" means a person appointed by a court to assume legal authority for another who has been found incompetent or, in the case of a minor, a person who has legal custody of the child.

(10) "Local public health officer" means the officer directing the county or city-county health department or his or her designee who has been given the responsibility and authority to protect the health of the public within his or her jurisdiction.

(11) "Medical treatment" includes treatment for curable diseases and treatment that causes a person to be unable to transmit a disease to others, based upon generally accepted standards of medical and public health science, as specified by the board in rule.

(12) "Person" includes any natural person, partnership, association, joint venture, trust, public or private corporation, or health facility.

~~((12) "Release of test results" means a written authorization for disclosure of any sexually transmitted disease test result which is signed, dated, and which specifies to whom disclosure is authorized and the time period during which the release is to be effective.))~~

(13) "Sexually transmitted disease" means a bacterial, viral, fungal, or parasitic disease, determined by the board by rule to be sexually transmitted, to be a threat to the public health and welfare, and to be a disease for which a legitimate public interest will be served by providing for regulation and treatment. The board shall designate chancroid, gonorrhea, granuloma inguinale,

lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), trachomitis, genital human papilloma virus infection, syphilis, acquired immunodeficiency syndrome (AIDS), and human immunodeficiency virus (HIV) infection as sexually transmitted diseases, and shall consider the recommendations and classifications of the centers for disease control and other nationally recognized medical authorities in designating other diseases as sexually transmitted.

(14) "State public health officer" means the secretary of health or an officer appointed by the secretary.

Sec. 3. RCW 70.24.024 and 1988 c 206 s 909 are each amended to read as follows:

(1) Subject to the provisions of this chapter, the state and local public health officers or their authorized representatives may examine and counsel ~~((or cause to be examined and counseled))~~ persons reasonably believed to be infected with or to have been exposed to a sexually transmitted disease.

~~((Orders or restrictive measures directed to persons with a sexually transmitted disease shall be used as the last resort when other measures to protect the public health have failed, including reasonable efforts, which shall be documented, to obtain the voluntary cooperation of the person who may be subject to such an order. The orders and measures shall be applied serially with the least intrusive measures used first. The burden of proof shall be on the state or local public health officer to show that specified grounds exist for the issuance of the orders or restrictive measures and that the terms and conditions imposed are no more restrictive than necessary to protect the public health.))~~

~~((3) When the state or local public health officer within his or her respective jurisdiction knows or has reason to believe, because of direct medical knowledge or reliable testimony of others in a position to have direct knowledge of a person's behavior, that a~~

~~person has a sexually transmitted disease and is engaging in specified conduct, as determined by the board by rule based upon generally accepted standards of medical and public health science, that endangers the public health, he or she shall conduct an investigation in accordance with procedures prescribed by the board to evaluate the specific facts alleged, if any, and the reliability and credibility of the person or persons providing such information and, if satisfied that the allegations are true, he or she may issue an order according to the following priority to:))~~ (a) The state or a local public health officer may conduct an investigation when:

(i) He or she knows or has reason to believe that a person in his or her jurisdiction has a sexually transmitted disease and is engaging in specified behavior that endangers the public health; and

(ii) The basis for the public health officer's investigation is the officer's direct medical knowledge or reliable testimony of another who is in a position to have direct knowledge of the person's behavior.

(b) In conducting the investigation, the public health officer shall evaluate the allegations, as well as the reliability and credibility of any person or persons who provided information related to the specified behavior that endangers the public health.

(3) The public health officer shall document measures taken to protect the public health, including reasonable efforts to obtain the person's voluntary cooperation, if the public health officer determines upon conclusion of the investigation that the allegations are true and that the person continues to engage in behavior that endangers the public health.

(4) (a) If the measures taken under subsection (3) of this section fail to protect the public health, the public health officer may issue a health order requiring the person to:

~~((a) Order a person to))~~ (i) Submit to a medical examination or testing, seek counseling, or obtain medical treatment ~~((for curable diseases)), or any combination of these((, within a period of time~~

determined by the public health officer, not to exceed fourteen days.)) ; or

((~~(b) Order a person to~~)) (ii) Immediately cease and desist from specified ((conduct which)) behavior that endangers the health of others by imposing such restrictions upon the person as are necessary to prevent the specified ~~((conduct))~~ behavior that endangers the health of others ~~((only if the public health officer has determined that clear and convincing evidence exists to believe that such person has been ordered to report for counseling as provided in (a) of this subsection and continues to demonstrate behavior which endangers the health of others))~~.

(b) Any restriction shall be in writing, setting forth the name of the person to be restricted((and)), the initial period of time((, not to exceed three months,)) during which the health order shall remain effective, the terms of the restrictions, and such other conditions as may be necessary to protect the public health. Restrictions shall be imposed in the least-restrictive manner necessary to protect the public health. The period of time during which the health order is effective must be reasonably related to the purpose of the restriction or restrictions contained in the order, up to a maximum period of twelve months.

~~((4))~~ (5) (a) Upon the issuance of ((any)) a health order ((by the state or local public health officer or an authorized representative)) pursuant to subsection ((3)) (4) of this section ((or RCW 70.24.340(4), such)), the public health officer shall give written notice promptly, personally, and confidentially to the person who is the subject of the order stating the grounds and provisions of the order, including the factual bases therefor, the evidence relied upon for proof of infection and dangerous behavior, and the likelihood of repetition of such behaviors in the absence of such an order((, and notifying)). The written notice must inform the person who is the subject of the order that, if he or she contests the order, he or she may appear at a judicial hearing on

1 the enforceability of the order, to be held in superior court. (~~He~~
2 ~~or she may have an attorney appear on his or her behalf in the~~
3 ~~hearing at public expense, if necessary.))~~ The hearing shall be held
4 within seventy-two hours of receipt of the notice, unless the person
5 subject to the order agrees to comply. If the person contests the
6 order, no invasive medical procedures shall be carried out prior to
7 a hearing being held pursuant to this subsection. (~~If the person~~
8 ~~does not contest the order within seventy two hours of receiving it,~~
9 ~~and the person does not comply with the order within the time period~~
10 ~~specified for compliance with the order, the state or local public~~
11 ~~health officer may request a warrant be issued by the superior court~~
12 ~~to insure appearance at the hearing. The hearing shall be within~~
13 ~~seventy two hours of the expiration date of the time specified for~~
14 ~~compliance with the original order.))~~

15 (b) The public health officer may apply to the superior court
16 for a court order requiring the person to comply with the health
17 order if the person fails to comply with the health order within the
18 time period specified.

19 (c) At a hearing held pursuant to subsection (a) or (b) of this
20 subsection (5), the person subject to the health order may have an
21 attorney appear on his or her behalf at public expense, if
22 necessary. The burden of proof shall be on the local public health
23 officer to show by clear and convincing evidence that the specified
24 grounds exist for the issuance of the order and for the need for
25 compliance and that the terms and conditions imposed therein are no
26 more restrictive than necessary to protect the public health. Upon
27 conclusion of the hearing, the court shall issue appropriate orders
28 affirming, modifying, or dismissing the health order.

29 ~~((b))~~ (d) If the superior court dismisses the health order
30 ~~((of the public health officer))~~, the fact that the order was issued
31 shall be expunged from the records of the department or local
32 department of health.

~~((5) Any hearing conducted pursuant to this section shall be closed and confidential unless a public hearing is requested by the person who is the subject of the order, in which case the hearing will be conducted in open court. Unless in open hearing, any transcripts or records relating thereto shall also be confidential and may be sealed by the order of the court.))~~

NEW SECTION. **Sec. 4.** A new section is added to chapter 70.24 RCW to read as follows:

A person who violates or fails to comply with a health order issued under RCW 70.24.024 is guilty of a gross misdemeanor punishable by confinement until the order has been complied with or terminated, up to a maximum period of three hundred sixty-four days. In lieu of confinement, the court may place the defendant on probation upon condition that the defendant comply with the health order, up to the length of the health order. If the defendant is placed on probation and subsequently violates or fails to comply with the health order, the court shall revoke the probation and reinstate the original sentence of confinement.

NEW SECTION. **Sec. 5.** A new section is added to chapter 70.24 RCW to read as follows:

(1) It is unlawful for a person who knows that he or she has a sexually transmitted disease of special public health significance to have sexual intercourse if:

(a) The person has been counseled by a health care provider or public health professional regarding the risk of transmitting the disease to others; and

(b) If sexual intercourse was voluntary, the partner or partners exposed to the disease did not know that the person had the disease.

(2) It is a defense to a prosecution under this section if the person took or attempted to take practical means to prevent transmission of the disease.

(3)(a) Except as provided in (b) of this subsection (3), violation of this section is a misdemeanor punishable as provided in RCW 9A.20.021.

(b) Violation of this section is a gross misdemeanor punishable as provided in RCW 9A.20.021:

(i) If transmission of the disease occurred;

(ii) If the person exposed more than one other person to the disease; or

(iii) Upon the third or subsequent conviction under this section.

(4) For purposes of this section, the following terms have the following meanings:

(a) "Practical means to prevent transmission" means good faith employment of an activity, behavior, method, or device that is scientifically demonstrated to measurably reduce the risk of transmitting a sexually transmitted disease, including but not limited to: the use of a condom, barrier protection, or other prophylactic device; or good faith participation in a treatment regimen prescribed by a health care provider or public health professional.

(b) "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight, of the vagina or anus of one person by the sexual organs of another whether such persons are of the same or another sex.

(c) "Sexually transmitted disease of special public health significance" means gonorrhea, human immunodeficiency virus, hepatitis B virus, syphilis, and any other disease determined by the board by rule, based on generally accepted standards of medical and public health science.

Sec. 6. RCW 70.24.080 and 1988 c 206 s 911 are each amended to read as follows:

1 Except as provided in sections 4 and 5 of this act, any person
2 who shall violate any of the provisions of this chapter or any
3 lawful rule adopted by the board pursuant to the authority herein
4 granted, or who shall fail or refuse to obey any lawful order issued
5 by any state, county or municipal public health officer, pursuant to
6 the authority granted in this chapter, shall be deemed guilty of a
7 gross misdemeanor punishable as provided under RCW 9A.20.021.

8 **Sec. 7.** RCW 70.24.095 and 1988 c 206 s 705 are each amended to
9 read as follows:

10 (1) Every health care practitioner attending a pregnant woman or
11 a person seeking treatment of a sexually transmitted disease shall
12 insure that ~~((AIDS counseling))~~ sexually transmitted disease and
13 blood borne pathogen education of the patient is conducted.

14 (2) ~~((AIDS counseling))~~ Blood borne pathogen education shall be
15 provided to each person in ~~((a drug treatment program under *chapter~~
16 ~~69.54))~~ an approved substance use disorder treatment program under
17 chapter 71.24 RCW.

18 **Sec. 8.** RCW 70.24.110 and 1988 c 206 s 912 are each amended to
19 read as follows:

20 A minor fourteen years of age or older who may have come in
21 contact with any sexually transmitted disease or suspected sexually
22 transmitted disease may give consent to the furnishing of hospital,
23 medical and surgical care related to the diagnosis~~((or))~~,
24 treatment, or preventive care of such disease. Such consent shall
25 not be subject to disaffirmance because of minority. The consent of
26 the parent, parents, or legal guardian of such minor shall not be
27 necessary to authorize hospital, medical and surgical care related
28 to such disease and such parent, parents, or legal guardian shall
29 not be liable for payment for any care rendered pursuant to this
30 section.

Sec. 9. RCW 70.24.130 and 1991 c 3 s 325 are each amended to read as follows:

(1) The board shall adopt such rules as are necessary to implement and enforce this chapter~~((Rules may also be adopted by the department of health for the purposes of this chapter. The rules may include))~~, including rules:

(a) Establishing procedures for taking appropriate action, in addition to any other penalty under this chapter, with regard to health care facilities or health care providers ((which)) that violate this chapter or the rules adopted under this chapter~~((The rules shall prescribe))~~);

(b) Prescribing stringent safeguards to protect the confidentiality of the persons and records subject to this chapter, consistent with chapter 70.02 RCW;

(c) Establishing reporting requirements for sexually transmitted diseases;

(d) Establishing procedures for investigations under RCW 70.24.024;

(e) Specifying, for purposes of RCW 70.24.024, behavior that endangers the public health, based upon generally accepted standards of medical and public health science;

(f) Determining, for purposes of RCW 70.24.340, categories of employment that are at risk of substantial exposure to a blood-borne pathogen; and

(g) Defining, for purposes of RCW 70.24.360 and 70.24.370, what constitutes a possible risk of transmission of a blood-borne pathogen.

(2) In addition to any rules adopted by the board, the department may adopt any rules necessary to implement and enforce this chapter.

(3) The procedures set forth in chapter 34.05 RCW apply to the administration of this chapter, except that in case of conflict

between chapter 34.05 RCW and this chapter, the provisions of this chapter shall control.

Sec. 10. RCW 70.24.220 and 1988 c 206 s 401 are each amended to read as follows:

The legislature finds that the public schools provide a unique and appropriate setting for educating young people about the pathology and prevention of ~~((acquired immunodeficiency syndrome (AIDS)))~~ sexually transmitted diseases. The legislature recognizes that schools and communities vary throughout the state and that locally elected school directors should have a significant role in establishing a program of ~~((AIDS))~~ sexually transmitted disease education in their districts, consistent with RCW 28A.230.020 and 28A.300.475.

Sec. 11. RCW 70.24.325 and 1989 c 387 s 1 are each amended to read as follows;

(1) This section shall apply to ~~((counseling and))~~ consent for ~~((HIV))~~ blood borne pathogen testing administered as part of an application for coverage authorized under Title 48 RCW.

(2) Persons subject to regulation under Title 48 RCW who are requesting an insured, a subscriber, or a potential insured or subscriber to furnish the results of ~~((an HIV))~~ a blood borne pathogen test for underwriting purposes as a condition for obtaining or renewing coverage under an insurance contract, health care service contract, or health maintenance organization agreement shall:

(a) Provide written information to the individual prior to being tested which explains:

(i) ~~((What an HIV test is;~~
(ii) ~~Behaviors that place a person at risk for HIV infection;~~
(iii) ~~))~~ Which blood borne pathogen test is being administered;
and

(ii) That the purpose of ((HIV)) blood borne pathogen testing in this setting is to determine eligibility for coverage((÷

~~(iv) The potential risks of HIV testing; and~~

~~(v) Where to obtain HIV pretest counseling)) .~~

(b) Obtain informed specific written consent for ((an HIV test)) blood borne pathogen testing. The written informed consent shall include((÷

~~(i))~~ an explanation of the confidential treatment of the test results which limits access to the results to persons involved in handling or determining applications for coverage or claims of the applicant or claimant ((and to those persons designated under
~~((c)(iii)))~~ (c) of this subsection; and

~~(ii) Requirements under (c)(iii) of this subsection.~~

~~(c) Establish procedures to inform an applicant of the following:~~

~~(i) That post test counseling, as specified under WAC 248-100-209(4), is required if an HIV test is positive or indeterminate;~~

~~(ii) That post test counseling occurs at the time a positive or indeterminate HIV test result is given to the tested individual;~~

~~(iii) That the applicant may designate a health care provider or health care agency to whom the insurer, the health care service contractor, or health maintenance organization will provide positive or indeterminate test results for interpretation and post test counseling. When an applicant does not identify a designated health care provider or health care agency and the applicant's test results are either positive or indeterminate, the insurer, the health care service contractor, or health maintenance organization shall provide the test results to the local health department for interpretation and post test counseling; and~~

~~(iv) That positive or indeterminate HIV test results shall not be sent directly to the applicant)) .~~

Sec. 12. RCW 70.24.340 and 2011 c 232 s 2 are each amended to read as follows:

~~((1) Local health departments authorized under this chapter shall conduct or cause to be conducted pretest counseling, HIV testing, and posttest counseling of all persons:~~

~~(a) Convicted of a sexual offense under chapter 9A.44 RCW;~~

~~(b) Convicted of prostitution or offenses relating to prostitution under chapter 9A.88 RCW; or~~

~~(c) Convicted of drug offenses under chapter 69.50 RCW if the court determines at the time of conviction that the related drug offense is one associated with the use of hypodermic needles.~~

~~(2) Such testing shall be conducted as soon as possible after sentencing and shall be so ordered by the sentencing judge.~~

~~(3) This section applies only to offenses committed after March 23, 1988.~~

~~(4))~~ A law enforcement officer, firefighter, health care provider, health care facility staff person, department of corrections' staff person, jail staff person, or person employed in other categories of employment determined by the board in rule to be at risk of substantial exposure to ((HIV)) a blood-borne pathogen, who has experienced a substantial exposure to another person's bodily fluids in the course of his or her employment, may request a state or local public health officer to order ~~((pretest counseling, HIV testing, and posttest counseling))~~ blood-borne pathogen testing for the person whose bodily fluids he or she has been exposed to.

~~((A person eligible to request a state or local health official to order HIV testing under this chapter and board rule may also request a state or local health officer to order testing for other blood-borne pathogens.))~~ If the state or local public health officer

refuses to order ~~((counseling and))~~ testing under this

~~((subsection))~~ section, the person who made the request may petition the superior court for a hearing to determine whether an order shall be issued. The hearing on the petition shall be held within seventy-

two hours of filing the petition, exclusive of Saturdays, Sundays, and holidays. The standard of review to determine whether the public health officer shall be required to issue the order is whether substantial exposure occurred and whether that exposure presents a possible risk of transmission of ~~((the HIV virus as defined by the board by rule))~~ a blood-borne pathogen. Upon conclusion of the hearing, the court shall issue the appropriate order~~((, which may require additional testing for other blood-borne pathogens))~~.

The person who is subject to the state or local public health officer's order to receive ~~((counseling and))~~ testing shall be given written notice of the order promptly, personally, and confidentially, stating the grounds and provisions of the order, including the factual basis therefor. If the person who is subject to the order refuses to comply, the state or local public health officer may petition the superior court for a hearing. The hearing on the petition shall be held within seventy-two hours of filing the petition, exclusive of Saturdays, Sundays, and holidays. The standard of review for the order is whether substantial exposure occurred and whether that exposure presents a possible risk of transmission of ~~((the HIV virus as defined by the board by rule))~~ a blood-borne pathogen. Upon conclusion of the hearing, the court shall issue the appropriate order.

The state or local public health officer shall perform ~~((counseling and))~~ testing under this ~~((subsection))~~ section if he or she finds that the exposure was substantial and presents a possible risk ~~((as defined by the board of health by rule))~~ of transmission of a blood-borne pathogen or if he or she is ordered to do so by a court.

The ~~((counseling and))~~ testing required under this ~~((subsection))~~ section shall be completed as soon as possible after the substantial exposure or after an order is issued by a court, but shall begin not later than seventy-two hours after the substantial exposure or an order is issued by the court.

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Sec. 13. RCW 70.24.360 and 1988 c 206 s 706 are each amended to read as follows:

Jail administrators, with the approval of the local public health officer, may order ~~((pretest counseling, HIV testing, and posttest counseling for persons))~~ blood-borne pathogen testing for a person detained in the jail if the local public health officer determines that ~~((actual or threatened))~~ the detainee's behavior presents a possible risk to the staff, general public, or other persons. ~~((Approval of the local public health officer shall be based on RCW 70.24.024(3) and may be contested through RCW 70.24.024(4). The administrator shall establish, pursuant to RCW 70.48.071, a procedure to document the possible risk which is the basis for the HIV testing. "Possible risk," as used in this section, shall be defined by the board in rule.))~~ Documentation of the behavior~~((, or threat thereof,))~~ shall be reviewed with the person to ~~((try to assure))~~ ensure that the person understands the basis for testing.

Sec. 14. RCW 70.24.370 and 1988 c 206 s 707 are each amended to read as follows:

(1) ~~((Department of corrections facility administrators may order pretest counseling, HIV testing, and posttest counseling for inmates if the secretary of corrections or the secretary's designee determines that actual or threatened))~~ The medical director of the department of corrections may order blood-borne pathogen testing for an inmate if the medical director or his or her designee determines that the inmate's behavior presents a possible risk to the staff, general public, or other inmates. The department of corrections shall establish a procedure to document the possible risk which is the basis for the ~~((HIV))~~ testing. ~~((("Possible risk," as used in this section, shall be defined by the department of corrections after consultation with the board. Possible risk, as used in the documentation of the behavior, or threat thereof, shall be reviewed~~

1 ~~with the inmate.))~~ The medical director, or his or her designee,
2 shall review the possible risk in the documentation of the behavior
3 with the inmate to ensure that he or she understands the basis for
4 the testing.

5 (2) ~~((Department of corrections administrators and~~
6 ~~superintendents who are authorized to make decisions about testing~~
7 ~~and dissemination of test information shall, at least annually,~~
8 ~~participate in training seminars on public health considerations~~
9 ~~conducted by the assistant secretary for public health or her or his~~
10 ~~designee.~~

11 ~~(3))~~ Administrative hearing requirements set forth in chapter
12 34.05 RCW do not apply to the procedure developed by the department
13 of corrections pursuant to this section. This section shall not be
14 construed as requiring any hearing process except as may be required
15 under existing federal constitutional law.

16 ~~((4) RCW 70.24.340 does not apply to the department of~~
17 ~~corrections or to inmates in its custody or subject to its~~
18 ~~jurisdiction.))~~

19 **Sec. 15.** RCW 9A.36.011 and 1997 c 196 s 1 are each amended to
20 read as follows:

21 (1) A person is guilty of assault in the first degree if he or
22 she, with intent to inflict great bodily harm:

23 (a) Assaults another with a firearm or any deadly weapon or by
24 any force or means likely to produce great bodily harm or death; or

25 (b) Administers, exposes, or transmits to or causes to be taken
26 by another, poison(~~(, the human immunodeficiency virus as defined in~~
27 ~~chapter 70.24 RCW,))~~ or any other destructive or noxious substance;
28 or

29 (c) Assaults another and inflicts great bodily harm.

30 (2) Assault in the first degree is a class A felony.

Sec. 16. RCW 18.35.040 and 2014 c 189 s 4 are each amended to read as follows:

(1) An applicant for licensure as a hearing aid specialist must have the following minimum qualifications and shall pay a fee determined by the secretary as provided in RCW 43.70.250. An applicant shall be issued a license under the provisions of this chapter if the applicant has not committed unprofessional conduct as specified by chapter 18.130 RCW, and:

(a) (i) Satisfactorily completes the hearing aid specialist examination required by this chapter; and

(ii) Satisfactorily completes:

(A) A minimum of a two-year degree program in hearing aid specialist instruction. The program must be approved by the board;

(B) A two-year or four-year degree in a field of study approved by the board from an accredited institution, a nine-month board-approved certificate program offered by a board-approved hearing aid specialist program and the practical examination approved by the board. The practical examination must be given at least quarterly, as determined by the board. The department may hire licensed industry experts approved by the board to proctor the examination; or

(b) Holds a current, unsuspended, unrevoked license from another jurisdiction if the standards for licensing in such other jurisdiction are substantially equivalent to those prevailing in this state as provided in (a) of this subsection; or

(c) (i) Holds a current, unsuspended, unrevoked license from another jurisdiction, has been actively practicing as a licensed hearing aid specialist in another jurisdiction for at least forty-eight of the last sixty months, and submits proof of completion of advance certification from either the international hearing society or the national board for certification in hearing instrument sciences; and

(ii) Satisfactorily completes the hearing aid specialist examination required by this chapter or a substantially equivalent examination approved by the board.

The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary(~~(--and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board))~~).

(2)(a) An applicant for licensure as a speech-language pathologist or audiologist must have the following minimum qualifications:

(i) Has not committed unprofessional conduct as specified by the uniform disciplinary act;

(ii) Has a master's degree or the equivalent, or a doctorate degree or the equivalent, from a program at a board-approved institution of higher learning, which includes completion of a supervised clinical practicum experience as defined by rules adopted by the board; and

(iii) Has completed postgraduate professional work experience approved by the board.

(b) All qualified applicants must satisfactorily complete the speech-language pathology or audiology examinations required by this chapter.

(c) The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary(~~(--and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board))~~).

(3) An applicant for certification as a speech-language pathology assistant shall pay a fee determined by the secretary as provided in RCW 43.70.250 and must have the following minimum qualifications:

(a) An associate of arts or sciences degree, or a certificate of proficiency, from a speech-language pathology assistant program from

an institution of higher education that is approved by the board, as is evidenced by the following:

(i) Transcripts showing forty-five quarter hours or thirty semester hours of speech-language pathology coursework; and

(ii) Transcripts showing forty-five quarter hours or thirty semester hours of general education credit; or

(b) A bachelor of arts or bachelor of sciences degree, as evidenced by transcripts, from a speech, language, and hearing program from an institution of higher education that is approved by the board.

Sec. 17. RCW 49.44.180 and 2004 c 12 s 1 are each amended to read as follows:

It shall be unlawful for any person, firm, corporation, or the state of Washington, its political subdivisions, or municipal corporations to require, directly or indirectly, that any employee or prospective employee submit genetic information or submit to screening for genetic information as a condition of employment or continued employment.

"Genetic information" for purposes of this chapter, is information about inherited characteristics that can be derived from a DNA-based or other laboratory test, family history, or medical examination. "Genetic information" for purposes of this chapter, does not include: (1) Routine physical measurements, including chemical, blood, and urine analysis, unless conducted purposefully to diagnose genetic or inherited characteristics; and (2) results from tests for abuse of alcohol or drugs (~~(, or for the presence of HIV)~~).

Sec. 18. RCW 49.60.172 and 2003 c 273 s 2 are each amended to read as follows:

(1) No person may require an individual to take an HIV (~~(test, as defined in chapter 70.24 RCW,~~) or hepatitis C test, as a

condition of hiring, promotion, or continued employment unless the absence of HIV or hepatitis C infection is a bona fide occupational qualification for the job in question.

(2) No person may discharge or fail or refuse to hire any individual, or segregate or classify any individual in any way which would deprive or tend to deprive that individual of employment opportunities or adversely affect his or her status as an employee, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of the results of an HIV test or hepatitis C test unless the absence of HIV or hepatitis C infection is a bona fide occupational qualification of the job in question.

(3) The absence of HIV or hepatitis C infection as a bona fide occupational qualification exists when performance of a particular job can be shown to present a significant risk, as defined by the board of health by rule, of transmitting HIV or hepatitis C infection to other persons, and there exists no means of eliminating the risk by restructuring the job.

(4) For the purpose of this chapter, any person who is actually infected with HIV or hepatitis C, but is not disabled as a result of the infection, shall not be eligible for any benefits under the affirmative action provisions of chapter 49.74 RCW solely on the basis of such infection.

(5) Employers are immune from civil action for damages arising out of transmission of HIV or hepatitis C to employees or to members of the public unless such transmission occurs as a result of the employer's gross negligence.

Sec. 19. RCW 70.02.220 and 2017 3rd sp.s. c 6 s 332 are each amended to read as follows:

(1) No person may disclose or be compelled to disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease,

except as authorized by this section, RCW 70.02.210, or chapter 70.24 RCW.

(2) No person may disclose or be compelled to disclose information and records related to sexually transmitted diseases, except as authorized by this section, RCW 70.02.210, 70.02.205, or chapter 70.24 RCW. A person may disclose information related to sexually transmitted diseases about a patient without the patient's authorization, to the extent a recipient needs to know the information, if the disclosure is to:

(a) The subject of the test or the subject's legal representative for health care decisions in accordance with RCW 7.70.065, with the exception of such a representative of a minor fourteen years of age or over and otherwise competent;

(b) The state public health officer as defined in RCW 70.24.017, a local public health officer, or the centers for disease control of the United States public health service in accordance with reporting requirements for a diagnosed case of a sexually transmitted disease;

(c) A health facility or health care provider that procures, processes, distributes, or uses: (i) A human body part, tissue, or blood from a deceased person with respect to medical information regarding that person; (ii) semen, including that was provided prior to March 23, 1988, for the purpose of artificial insemination; or (iii) blood specimens;

(d) Any state or local public health officer conducting an investigation pursuant to RCW 70.24.024, so long as the record was obtained by means of court-ordered ((HIV)) testing pursuant to RCW 70.24.340 or 70.24.024;

(e) A person allowed access to the record by a court order granted after application showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of the order, the court, in determining the extent to which

any disclosure of all or any part of the record of any such test is necessary, shall impose appropriate safeguards against unauthorized disclosure. An order authorizing disclosure must: (i) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted; (ii) limit disclosure to those persons whose need for information is the basis for the order; and (iii) include any other appropriate measures to keep disclosure to a minimum for the protection of the patient, the physician-patient relationship, and the treatment services;

(f) Persons who, because of their behavioral interaction with the infected individual, have been placed at risk for acquisition of a sexually transmitted disease, as provided in RCW 70.24.022, if the health officer or authorized representative believes that the exposed person was unaware that a risk of disease exposure existed and that the disclosure of the identity of the infected person is necessary;

(g) A law enforcement officer, firefighter, health care provider, health care facility staff person, department of correction's staff person, jail staff person, or other persons as defined by the board of health in rule pursuant to RCW 70.24.340(~~((4))~~), who has requested a test of a person whose bodily fluids he or she has been substantially exposed to, pursuant to 70.24.340(~~((4))~~), if a state or local public health officer performs the test;

(h) Claims management personnel employed by or associated with an insurer, health care service contractor, health maintenance organization, self-funded health plan, state administered health care claims payer, or any other payer of health care claims where such disclosure is to be used solely for the prompt and accurate evaluation and payment of medical or related claims. Information released under this subsection must be confidential and may not be released or available to persons who are not involved in handling or determining medical claims payment; and

(i) A department of children, youth, and families worker, a child placing agency worker, or a guardian ad litem who is responsible for making or reviewing placement or case-planning decisions or recommendations to the court regarding a child, who is less than fourteen years of age, has a sexually transmitted disease, and is in the custody of the department of children, youth, and families or a licensed child placing agency. This information may also be received by a person responsible for providing residential care for such a child when the department of social and health services, the department of children, youth, and families, or a licensed child placing agency determines that it is necessary for the provision of child care services.

(3) No person to whom the results of a test for a sexually transmitted disease have been disclosed pursuant to subsection (2) of this section may disclose the test results to another person except as authorized by that subsection.

(4) The release of sexually transmitted disease information regarding an offender or detained person, except as provided in subsection (2)(d) of this section, is governed as follows:

(a) The sexually transmitted disease status of a department of corrections offender who has had a mandatory test conducted pursuant to RCW 70.24.340(~~((1))~~), 70.24.360, or 70.24.370 must be made available by department of corrections health care providers and local public health officers to the department of corrections health care administrator or infection control coordinator of the facility in which the offender is housed. The information made available to the health care administrator or the infection control coordinator under this subsection (4)(a) may be used only for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. The information may be submitted to transporting officers and receiving facilities, including facilities that are not under the department of corrections'

jurisdiction according to the provisions of (d) and (e) of this subsection.

(b) The sexually transmitted disease status of a person detained in a jail who has had a mandatory test conducted pursuant to RCW 70.24.340(~~((1))~~), 70.24.360, or 70.24.370 must be made available by the local public health officer to a jail health care administrator or infection control coordinator. The information made available to a health care administrator under this subsection (4)(b) may be used only for disease prevention or control and for protection of the safety and security of the staff, offenders, detainees, and the public. The information may be submitted to transporting officers and receiving facilities according to the provisions of (d) and (e) of this subsection.

(c) Information regarding the sexually transmitted disease status of an offender or detained person is confidential and may be disclosed by a correctional health care administrator or infection control coordinator or local jail health care administrator or infection control coordinator only as necessary for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. Unauthorized disclosure of this information to any person may result in disciplinary action, in addition to the penalties prescribed in RCW 70.24.080 or any other penalties as may be prescribed by law.

(d) Notwithstanding the limitations on disclosure contained in (a), (b), and (c) of this subsection, whenever any member of a jail staff or department of corrections staff has been substantially exposed to the bodily fluids of an offender or detained person, then the results of any tests conducted pursuant to RCW 70.24.340(~~((1))~~), 70.24.360, or 70.24.370, must be immediately disclosed to the staff person in accordance with the Washington Administrative Code rules governing employees' occupational exposure to blood-borne pathogens. Disclosure must be accompanied by appropriate counseling for the staff member, including information regarding follow-up testing and

1 treatment. Disclosure must also include notice that subsequent
2 disclosure of the information in violation of this chapter or use of
3 the information to harass or discriminate against the offender or
4 detainee may result in disciplinary action, in addition to the
5 penalties prescribed in RCW 70.24.080, and imposition of other
6 penalties prescribed by law.

7 (e) The staff member must also be informed whether the offender
8 or detained person had any other communicable disease, as defined in
9 RCW 72.09.251(3), when the staff person was substantially exposed to
10 the offender's or detainee's bodily fluids.

11 (f) The test results of voluntary and anonymous (~~(HIV)~~) testing
12 (~~((or HIV-related condition))~~) for a blood-borne pathogen, as defined
13 in RCW 70.24.017, may not be disclosed to a staff person except as
14 provided in this section and RCW 70.02.050(1)(d) and
15 70.24.340(~~((4))~~). A health care administrator or infection control
16 coordinator may provide the staff member with information about how
17 to obtain the offender's or detainee's test results under this
18 section and RCW 70.02.050(1)(d) and 70.24.340(~~((4))~~).

19 (5) The requirements of this section do not apply to the
20 customary methods utilized for the exchange of medical information
21 among health care providers in order to provide health care services
22 to the patient, nor do they apply within health care facilities
23 where there is a need for access to confidential medical information
24 to fulfill professional duties.

25 (6) Upon request of the victim, disclosure of test results under
26 this section to victims of sexual offenses under chapter 9A.44 RCW
27 must be made if the result is negative or positive. The county
28 prosecuting attorney shall notify the victim of the right to such
29 disclosure. The disclosure must be accompanied by appropriate
30 counseling, including information regarding follow-up testing.

31 (7) A person, including a health care facility or health care
32 provider, shall disclose the identity of any person who has
33 investigated, considered, or requested a test or treatment for a

sexually transmitted disease and information and records related to sexually transmitted diseases to federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information; when needed to determine compliance with state or federal certification or registration rules or laws; or when needed to protect the public health. Any health care information obtained under this subsection is exempt from public inspection and copying pursuant to chapter 42.56 RCW.

NEW SECTION. **Sec. 20.** The following acts or parts of acts are each repealed:

(1) RCW 70.24.100 (Syphilis laboratory tests) and 1991 c 3 s 323, 1979 c 141 s 95, & 1939 c 165 s 2;

(2) RCW 70.24.107 (Rule-making authority—1997 c 345) and 1999 c 372 s 14;

(3) RCW 70.24.125 (Reporting requirements for sexually transmitted diseases—Rules) and 1988 c 206 s 905;

(4) RCW 70.24.140 (Certain infected persons—Sexual intercourse unlawful without notification) and 1988 c 206 s 917;

(5) RCW 70.24.240 (Clearinghouse for AIDS educational materials) and 1988 c 206 s 601;

(6) RCW 70.24.250 (Office on AIDS—Repository and clearinghouse for AIDS education and training material—University of Washington duties) and 1988 c 206 s 602;

(7) RCW 70.24.260 (Emergency medical personnel—Rules for AIDS education and training) and 1988 c 206 s 603;

(8) RCW 70.24.270 (Health professionals—Rules for AIDS education and training) and 1988 c 206 s 604;

(9) RCW 70.24.280 (Pharmacy quality assurance commission—Rules for AIDS education and training) and 2013 c 19 s 122;

(10) RCW 70.24.290 (Public school employees—Rules for AIDS education and training) and 1988 c 206 s 606;

(11) RCW 70.24.300 (State and local government employees—Determination of substantial likelihood of exposure—Rules for AIDS education and training) and 1993 c 281 s 60;

(12) RCW 70.24.310 (Health care facility employees—Rules for AIDS education and training) and 1988 c 206 s 608;

(13) RCW 70.24.320 (Counseling and testing—AIDS and HIV—Definitions) and 1988 c 206 s 701;

(14) RCW 70.24.350 (Prostitution and drug offenses—Voluntary testing and counseling) and 1988 c 206 s 704;

(15) RCW 70.24.380 (Board of health—Rules for counseling and testing) and 1988 c 206 s 709;

(16) RCW 70.24.400 (Funding for office on AIDS—Center for AIDS education—Department's duties for awarding grants) and 2010 1st sp.s. c 3 s 1;

(17) RCW 70.24.410 (AIDS advisory committee—Duties, review of insurance problems—Termination) and 1991 c 3 s 328 & 1988 c 206 s 803; and

(18) RCW 74.46.835 (AIDS pilot nursing facility—Payment for direct care) and 2016 c 131 s 6, 2010 1st sp.s. c 34 s 17, & 1998 c 322 s 46.

NEW SECTION. **Sec. 21.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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